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C O N F I D E N T I A L SECTION 01 OF 03 ANKARA 006593

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TAGS: [PGOV](#) [PHUM](#) [PREL](#) [OSCE](#) [TU](#)
SUBJECT: TURKEY'S PRESIDENT RESISTS REFORM BY VETOING
PORTION OF FOUNDATIONS LAW

REF: A. ANKARA 6529
[1](#)B. ANKARA 6567

Classified By: Political Counselor Janice G. Weiner, reasons 1.4(b),(d)

1.(C) Summary: In a blow to Turkey's religious minorities, on November 29, President Sezer vetoed nine articles in Parliament's new Foundations Law, explaining that they violated Turkey's Constitution, laws, and the 1923 Treaty of Lausanne. The nine articles made up the most progressive parts of the law, which was widely perceived as expanding the property rights of Turkey's minorities. Minority Communities, who had hoped the law would have gone further, were unsurprised by the veto, and are cataloguing their complaints while awaiting Parliament's next move. The GOT's Directorate of Religious Affairs (Diyanet), as well as representatives from civil society, viewed the veto as part of a wider strategy to block measures that could erode the traditional secular power structure. The European Commission, greatly disappointed by the veto, predicted that Parliament will re-pass the law in a watered-down form. In an environment of rising nationalism where politicians are reluctant to be seen as taking steps that could be perceived as weakening the Turkish State, the ruling Justice and Development Party (AKP) is not likely to push through the law again in its current form. End summary.

President Vetoes Critical Sections of New Foundations Law

2.(U) On November 29, President Sezer partially vetoed and returned to Parliament the new Foundations Law passed by Parliament on November 9. The law, part of the GOT's 9th EU Reform Package, was generally viewed as a positive step toward resolving the conflict over properties belonging to Turkey's historic Christian, Jewish, and Baha'i communities (see ref A). Should Parliament again pass the law in its current form, the President's only recourse would be to challenge the law in the Constitutional Court.

3.(U) In a statement issued with the veto, Sezer said that the law violates the Lausanne Agreement of 1923, the Turkish Constitution, and Turkey's legal system. According to Sezer, the new law threatened the Turkish Republic's long-standing system of placing foundations established under Ottoman Sheriat law under the control of the GOT. He also implied that current laws sufficiently protect minority rights and

noted that Greece should reciprocally grant rights to its Muslim minority in Thrace before Turkey expands minority rights.

4.(U) Minority communities and civil society believe that seven of the nine vetoed articles (5, 12, 14, 16, 25, 26, and 41) formed the most significant and progressive core of the new law. A summary of these articles follows.

-- Article 5 would make it easier for Turkish citizens and foreign residents of Turkey to establish new foundations or branches of existing foundations.

-- Articles 12, 14, 16 and 26 would allow foundations to more readily change their founding charters, manage foundation property, and transfer, exchange, or sell that property.

-- Article 25 would allow foundations to establish branches and offices abroad.

-- Article 41 would add one representative from the minority communities to the Foundations' Council, the highest decision-making body overseeing foundation issues.

Minority Communities Focused on Law's Shortcomings, Not Veto

5.(C) Minority Community contacts told us that they were more focused on the law's inherent shortcomings than on the President's veto. Representatives from the Greek Orthodox and Armenian communities said that the primary shortcoming is that the new law did not allow them to recover confiscated

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properties sold to third parties -- in most cases the bulk of their expropriated properties (see ref A). Metropolitan Meliton, a senior advisor to Greek Orthodox Patriarch Bartholomew, told us in a December 5 meeting that although the law contained some positive measures, the Patriarchate has at least 17 points of contention. Before deciding their next steps, the religious minorities plan to closely monitor how Parliament will proceed, according to Meliton.

Diyanet: Veto Directed Toward Muslim Foundations

6.(SBU) The GOT's Directorate of Religious Affairs ("Diyanet") views President Sezer's veto as a nationalistic reaction to a Muslim population that increasingly desires to express its faith. Diyanet Deputy President Mehmet Gormez explained to us that under Turkish law, all foundations are treated equally. He believes that President Sezer is concerned that Muslim foundations, which represent 95% of foundations, would use provisions in the new legislation to expand their scope and power. Gormez believes, however, that the AK Party will use its majority in Parliament to again pass the same bill, which would limit the President's recourse to a challenge in the Constitutional Court.

Civil Society: Veto A Reflexive Nationalistic Reaction

7.(SBU) Turkish civil society contacts told us in meetings on December 1 that they view Sezer's veto as another effort to ward off a perceived threat to Turkey's secular order from the pro-Islam AKP (see ref B). Amnesty International Turkey's President Levent Korkut saw Sezer's veto as an unsurprising attempt to garner support from an increasingly nationalistic public that has reacted vociferously to perceived slights to the State, such as the recent French parliamentary effort to criminalize denial of the alleged Armenian genocide. "The President and the military have consistently tried to hinder the AKP by blocking such

progressive reforms," according to Korkut. Turkey's Human Rights Foundation President Yavuz Onen said he believes the veto to be part of a strategy to help the opposition Republican People's Party (CHP) to capitalize on rising nationalist sentiment in the lead up to next year's elections.

8.(SBU) Several academics viewed the veto as primarily an effort to stave off the rise of Islamic groups. Ankara University Anthropology professor Tayfun Atay said the veto demonstrates the President's paranoia that the AKP will use EU-encouraged reforms as cover to mask their true intention of replacing the Kemalist regime with a fundamentalist religious power-structure. Human Rights activist and political commentator Dr. Ahmet Kizilkaya, told us that the President, the military, and other secular-minded powers sincerely, but incorrectly, believe that Muslim tarikats (Sufi religious orders) will use any means, including the proposed Foundations Law, to acquire properties, increase revenues, and expand their power. Galatasaray Constitutional Law Professor Emre Oktem saw the veto, as well as CHP's opposition to the law, as preview of the upcoming election battle. He believes the AKP will use its majority in parliament to pass the law in its current state.

EU: Veto Wipes Away Law's Progress

9.(SBU) A representative of the European Commission to Turkey's Office told us that the veto wiped away the numerous significant advances in the law. EU Commission legal expert Didem Ulusoy said in a December 5 meeting that, given the CHP's staunch opposition to the law, Parliament is unlikely to again pass the law without significant changes that water-down the reforms. EU Commission Political Officer Serap Ocak, also downbeat, conveyed the Commission's great disappointment that the GOT has still not made good on its promises to improve property rights for religious minorities.

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10.(C) Comment: President Sezer's veto of this progressive law was a disappointing blow for human rights in Turkey, but not necessarily surprising. In an environment of rising nationalism (see ref B), opposition parties are trying to attack the AKP as Islamic fundamentalists at odds with Ataturk's founding principles, while portraying themselves as proud defenders of the Turkish State. In this politically charged atmosphere, AKP may have a majority in parliament, but politicians across the political spectrum are reluctant to promote change -- especially when it comes in the form of a measure that could be interpreted as empowering foreigners at the expense of the Turkish State. The Foundations Law was sacrificed under the banner of nationalism, and is unlikely to be resuscitated in its original form anytime soon. End comment.

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